



POLICE DEPARTMENT

March 24, 2008

MEMORANDUM FOR: POLICE COMMISSIONER

Re: Police Officer Miguel Lorca
Tax Registry No. 927097
61 Precinct
Disciplinary Case No. 83255/07

The above-member of the Department appeared before me on December 19, 2007, charged with the following:

1. Said Police Officer Miguel Lorca, assigned to 61 Precinct, on or about November 30, 2006, while on duty, having been informed that a crime had occurred, and after investigating said allegation, failed and neglected to take proper police action, make appropriate activity log entries, fill out a Complaint Report, complete a Stop, Question and Frisk Report, and conduct a warrant check of the perpetrators, as required.

P.G. 202-21, Page 1, Paragraphs 8 & 17 - POLICE OFFICER
P.G. 207-01, Page 3, Procedure, Paragraph 1 - COMPLAINT REPORTING
P.G. 212-11, Page 1, Paragraph 6 - STOP AND FRISK
P.G. 209-25, Page 1, Paragraphs 2 & 3 - PROCESSING WARRANT

2. Said Police Officer Miguel Lorca, assigned to the 61 Precinct, on or about November 30, 2006, while on duty, wrongfully informed a complainant that he would issue a summons to the alleged perpetrators of a larceny which he failed to do and which he could not do so since the alleged crime was not a summonsable offense.

P.G. 203-10, Page 1, Paragraph 5 - PROHIBITED CONDUCT

The Department was represented by Daniel Maurer, Esq., Department Advocate's Office, and the Respondent was represented by Michael Martinez, Esq.

The Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the

mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty as charged.

EVIDENCE IN MITIGATION

The Respondent testified that prior to entering the Department, he served four years in the U.S. Army's 82nd Airborne Division and was promoted to the rank of sergeant. For the past seven years, he has served in the Army National Guard. In 2004, his unit was deployed to Iraq for over a year, returning home during 2006. His unit is scheduled to be deployed to Afghanistan at the end of this year or during spring, 2009. As of November 30, 2006, the Respondent had been back from Iraq performing police duties for only about five months.

On November 30, 2006, he was on duty, assigned to school safety duties within the 61 Precinct, operating a marked Department vehicle. His duties were limited to patrolling areas near local public schools. He was on his meal period and was driving to get some food when he was flagged down by a civilian near the intersection of Coney Island Avenue and Avenue U, Brooklyn. The civilian, who was talking to someone on a cell phone, told the Respondent that he was an employee of nearby Lester's clothing store ("Lester's") and that someone in the store had just provided him with a description of a man who had been seen picking up coins laying on the ground next to the twenty-five cent rides for kids which were located in front of Lester's. The Respondent told the

manager was willing to accept these quarters, the Respondent decided to personally “mediate” this matter at the scene. Lester’s manager accepted the \$20.00 in quarters that the Respondent had recovered from the suspect. The Respondent then released the suspect and “everybody was happy.” When the Respondent explained what he had done to a sergeant who responded to the scene, the sergeant told him, “Okay, if you are mediating that is the end of it.” The entire incident lasted about 50 minutes.

The Respondent acknowledged that he should have followed proper procedures regarding this incident but that he failed to conduct a warrant check on the suspect before he released him, he did not make any activity log entries regarding this incident and he did not prepare a Complaint Report or a Stop, Question and Frisk Report. The Respondent also acknowledged that he did not ask the suspect where he had obtained the quarters that the Respondent found in his pockets, and that he had told the manager that he would issue the suspect a summons “for something.”

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974).

The Respondent was appointed to the Department on September 29, 2000. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Respondent admitted that, after he was informed that a crime had occurred, he failed to take proper police action, he failed to conduct a warrant check on the suspect, he did not make any activity log entries regarding this incident, and he did not fill out a

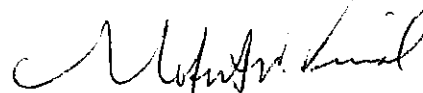
Complaint Report or a Stop, Question and Frisk Report, as he should have. The Respondent has further admitted that he wrongfully informed a complainant that he would issue a summons to the alleged perpetrator of a larceny, an act which he failed to do and which he could not lawfully do since the alleged crime was not an offense for which a summons could be issued.

In Disciplinary Case No. 81946/06 (approved on November 19, 2007), an 18-year member forfeited 15 vacation days after he pleaded guilty to neglecting to properly voucher motor vehicles that he had taken into custody and having failed to prepare a Complaint Follow-Up Report. However, unlike the Respondent here, the member in that case had a prior disciplinary adjudication.

In Disciplinary Case Nos. 80071/04, et al. (approved on June 16, 2006), an eight-year member and a seven-year member, neither of whom had a prior disciplinary record, each forfeited ten vacation days after pleading guilty to having failed to make Activity Log entries, using an unregistered confidential informant, transporting the informant in an RMP without first searching him or notifying a dispatcher, neglecting to prepare a Property Clerk's Invoice worksheet regarding several items of property they recovered, and improperly threatening to arrest an individual.

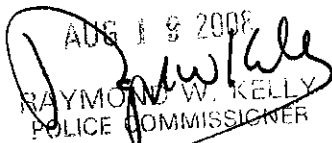
I recommend that the Respondent be required to forfeit ten vacation days.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner - Trials

APPROVED



AUG 19 2008
RAYMOND W. KELLY
POLICE COMMISSIONER